

**SEVENTEENTH DAY**  
(Tuesday, August 6, 1991)

The Senate met at 11:30 a.m. pursuant to adjournment and was called to order by the President.

The roll was called and the following Senators were present: Armbrister, Barrientos, Bivins, Brooks, Brown, Carriker, Dickson, Ellis, Glasgow, Green, Haley, Harris of Tarrant, Harris of Dallas, Henderson, Johnson, Krier, Leedom, Lucio, Lyon, Moncrief, Montford, Parker, Ratliff, Rosson, Sibley, Sims, Tejeda, Truan, Turner, Whitmire, Zaffirini.

A quorum was announced present.

The Reverend Lynn Barton, St. John's United Methodist Church, Austin, offered the invocation as follows:

Gracious God, we live on promises. There are many in this room who are acutely aware of this, as their political lives depend on the promises they make and keep. The citizens of Texas are quick to remind them of this fact also by their letters, phone calls and personal visits.

Sometimes, it seems impossible to fulfill all the promises that have been made to all the different people, especially when there's a limited possibility of only so much money to go around.

Then there are the promises that we have made to You, God, which seem even further beyond our grasp to accomplish.

Today, in the midst of the talking and voting, may these gathered here remember Your promise to them never to forsake or desert them. You are a God who stays up late, even later than the members of this body, and You sure get up a lot earlier. Thank You for Your promises which shall not fail. Amen.

On motion of Senator Brooks and by unanimous consent, the reading of the Journal of the proceedings of yesterday was dispensed with and the Journal was approved.

**MESSAGE FROM THE HOUSE**

House Chamber  
August 6, 1991

HONORABLE BOB BULLOCK  
PRESIDENT OF THE SENATE

SIR: I am directed by the House to inform the Senate that the House has passed the following:

**H.J.R. 8**, Proposing a constitutional amendment relating to the establishment of a state lottery.

**H.B. 11**, Relating to the imposition, application, rates, collection, and administration of various fees and taxes and to the allocation of revenue from fees and taxes.

**H.B. 54**, Relating to the establishment and operation of a state lottery; providing penalties.

Respectfully submitted,  
BETTY MURRAY, Chief Clerk  
House of Representatives

**SENATE BILLS AND RESOLUTION ON FIRST READING**

The following bills and resolution were introduced, read first time and referred to the Committee indicated:

**S.C.R. 18** by Ellis, Johnson, Truan, Lucio, Lyon, Administration  
Barrientos, Rosson, Whitmire, Zaffirini, Tejeda, Green  
Requesting the attorney general to settle the LULAC v. Mattox case.

**S.B. 95** by Brooks Finance  
Relating to the regulation of ocean-going vessels on which gambling is offered and to the application of certain gambling offenses to ocean-going vessels; creating offenses; imposing penalties.

**S.B. 96** by Brooks, Ellis, Green, Whitmire Finance  
Relating to the tax levy of a junior college district formerly managed, controlled and operated by an independent school district.

**S.B. 97** by Montford Jurisprudence  
Relating to registered limited liability partnerships; creating an offense and providing a penalty.

**S.B. 98** by Montford Finance  
Relating to the establishment and operation of a state lottery; providing penalties; making an appropriation.

**HOUSE BILLS AND RESOLUTION ON FIRST READING**

The following bills and resolution received from the House were read the first time and referred to the Committee indicated:

**H.B. 11**, To Committee on Finance.

**H.B. 54**, To Committee on Finance.

**H.J.R. 8**, To Committee on Finance.

**CAPITOL PHYSICIAN**

Senator Armbrister was recognized and presented Dr. Raymond Reese of Cuero.

Dr. Reese, participating in the "Capitol Physician" program sponsored by the Texas Academy of Family Physicians, was welcomed by the Senate and received an expression of gratitude for his service today.

(Senator Sims in Chair)

**COMMITTEE SUBSTITUTE  
HOUSE BILL 158 ON SECOND READING**

On motion of Senator Brooks and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**C.S.H.B. 158**, Relating to the administration and financing of, benefits payable by, and credit under programs administered by the Teacher Retirement System of Texas.

The bill was read second time.

(President in Chair)

Senator Brooks offered the following amendment to the bill:

**Floor Amendment No. 1**

Amend C.S.H.B. 158 on page 9, lines 28-36, by striking Subsection (b) in its entirety and substituting in lieu thereof the following:

(b) The system must honor a power of attorney executed in accordance with Chapter 1, Section 36A, Texas Probate Code.

The amendment was read and was adopted by a viva voce vote.

Senator Lucio offered the following amendment to the bill:

**Floor Amendment No. 2**

Amend C.S.H.B. 158 as follows:

On page 8, line 69, delete "7.31" and add the following 7.65

The amendment was read.

Senator Brooks moved to table the amendment.

On motion of Senator Lucio and by unanimous consent, the amendment was withdrawn.

On motion of Senator Brooks and by unanimous consent, the motion to table was withdrawn.

On motion of Senator Brooks and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading by a viva voce vote.

**COMMITTEE SUBSTITUTE  
HOUSE BILL 158 ON THIRD READING**

Senator Brooks moved that the Constitutional Rule and Senate Rule 7.20 requiring bills to be read on three several days be suspended and that C.S.H.B. 158 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 1, Present-not voting 1.

Yeas: Barricentos, Bivins, Brooks, Brown, Carriker, Dickson, Ellis, Glasgow, Halcy, Harris of Tarrant, Harris of Dallas, Henderson, Johnson, Krier, Leedom, Lucio, Lyon, Moncrief, Montford, Parker, Ratliff, Rosson, Sibley, Sims, Tejada, Truan, Turner, Whitmire, Zaffirini.

Nays: Green.

Present-not voting: Armbrister.

The bill was read third time and was passed by the following vote: Yeas 29, Nays 1, Present-not voting 1. (Same as previous roll call)

**GUESTS PRESENTED**

Senator Zaffirini was recognized and introduced a group of students and their sponsor from Pleasanton Elementary School.

The Senate welcomed these guests.

**HOUSE BILL 169 ON SECOND READING**

On motion of Senator Haley and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**H.B. 169**, Relating to nonsubstantive additions to and corrections in enacted codes, including the nonsubstantive codification of various laws omitted from enacted codes, and to conforming codifications enacted by the 72nd Legislature, Regular Session, to other Acts of that legislature.

The bill was read second time and was passed to third reading by a viva voce vote.

**HOUSE BILL 169 ON THIRD READING**

Senator Haley moved that the Constitutional Rule and Senate Rule 7.20 requiring bills to be read on three several days be suspended and that **H.B. 169** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by a viva voce vote.

**COMMITTEE SUBSTITUTE  
SENATE BILL 90 ON SECOND READING**

On motion of Senator Parker and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

**C.S.S.B. 90**, Relating to the oversight and regulation of the state's environmental, natural, and energy resources and to the duties, powers, and functions of the Texas Natural Resource Conservation Commission.

The bill was read second time.

**(Senator Haley in Chair)**

Senator Glasgow offered the following amendment to the bill:

**Floor Amendment No. 1**

Amend **C.S.S.B. 90** by deleting SECTION 8 (Committee Printing page 7, line 63 through page 8, line 11) in its entirety and renumbering subsequent sections accordingly.

The amendment was read.

Senator Brooks offered the following substitute amendment for Floor Amendment No. 1:

**Floor Amendment No. 2**

Amend Floor Amendment No. 1 to **C.S.S.B. 90** by substituting the following:

Amend **C.S.S.B. 90** on page 7 by striking SECTION 8 and substituting in lieu thereof the following:

(i) The board may contract with the Department of Public Safety to provide commissioned law enforcement personnel to enforce the vehicle inspection and maintenance program for air emission standards.

The substitute amendment was read.

On motion of Senator Brooks and by unanimous consent, Floor Amendment No. 2 was withdrawn.

(President in Chair)

Question recurring on the adoption of Floor Amendment No. 1, the amendment was adopted by a viva voce vote.

#### RECORD OF VOTE

Senator Brooks asked to be recorded as voting "Nay" on the adoption of Floor Amendment No. 1.

Senator Lucio offered the following amendment to the bill:

#### Floor Amendment No. 3

Amend C.S.S.B. 90 by adding a new section to the bill, appropriately numbered, to read as follows:

Section \_\_\_\_ Subchapter C, Chapter 361, Health and Safety Code, is amended by adding Section 361.115 to read as follows:

Sec. 361.115. PROHIBITION ON PERMIT FOR LANDFILL WITHIN ONE MILE OF WATER SUPPLY. The commission by rule shall prohibit the issuance of a permit for a new hazardous or nonhazardous waste landfill or the areal expansion of an existing hazardous or nonhazardous waste landfill that is or will be located within 1,000 yards of a water reservoir, a water treatment plant, or any other supply of public drinking water.

The amendment was read.

(Senator Carriker in Chair)

On motion of Senator Parker, the amendment was tabled by the following vote: Yeas 21, Nays 10.

Yeas: Armbrister, Bivins, Brown, Carriker, Dickson, Glasgow, Haley, Harris of Tarrant, Harris of Dallas, Henderson, Johnson, Krier, Leedom, Lyon, Moncrief, Montford, Parker, Ratliff, Rosson, Sims, Turner.

Nays: Barrientos, Brooks, Ellis, Green, Lucio, Sibley, Tejeda, Truan, Whitmire, Zaffirini.

Senator Brown offered the following amendment to the bill:

#### Floor Amendment No. 4

Amend C.S.S.B. 90, Subchapter E, starting on page 2, line 42, by deleting Sec. 5.221 in its entirety and substituting the following in place thereof:

Sec. 5.221. APPOINTMENT OF EXECUTIVE DIRECTOR. The board shall appoint an executive director, who serves at the pleasure of the board.

The amendment was read.

(President in Chair)

On motion of Senator Parker, the amendment was tabled by a viva voce vote.

Senator Sims offered the following amendment to the bill:

#### Floor Amendment No. 5

Amend C.S.S.B. 90 with the following:

Delete Subsection (a)(1) of SECTION 36.

Renumber subsections accordingly.

The amendment was read and was adopted by a viva voce vote.

Senator Green offered the following amendment to the bill:

**Floor Amendment No. 6**

Amend C.S.S.B. 90 as follows:

Add the following appropriately numbered section and renumber subsequent sections accordingly:

SECTION \_\_\_\_\_. Section 414.005, Government Code, is amended to read as follows:

Sec. 414.005. DUTIES. The council shall:

- (1) advise and assist in the creation of local crime stoppers programs;
- (2) foster the detection of crime and encourage persons to report information about criminal acts;
- (3) encourage news and other media to promote local crime stoppers programs and to inform the public of the functions of the council;
- (4) assist local crime stoppers programs in forwarding information about criminal acts to the appropriate law enforcement agencies; [and]
- (5) help law enforcement agencies detect and combat crime by increasing the flow of information to and between law enforcement agencies; and
- (6) establish procedures for a citizen to report a potential criminal violation of the state's environmental laws or the commission of a criminal offense, including procedures for:

(A) protecting the anonymity of a citizen making a report;

(B) sending reported information to the appropriate state or local agencies with original investigative jurisdiction; and

(C) paying, at the discretion of the governor, a monetary reward not to exceed \$1,000 for information that substantially contributes to the arrest of, filing of criminal charges against, indictment of, or assessment of a civil penalty against a person who has violated an environmental law of the state or who has committed a criminal offense.

SECTION \_\_\_\_\_. Section 414.006, Government Code, is amended to read as follows:

Sec. 414.006. RULES AND MEMORANDA OF UNDERSTANDING. (a)

The council may adopt rules to carry out its functions under this chapter.

(b) The council may enter into a memorandum of understanding with a federal agency, state agency, unit of local government, or a nonprofit organization to specify procedures for funding and the acceptance and dissemination of information regarding criminal acts and violations of the state's environmental laws.

SECTION \_\_\_\_\_. Section 414.008, Government Code, is amended to read as follows:

Sec. 414.008. PRIVILEGED INFORMATION. (a) Evidence of a communication between a person submitting a report of a criminal act or the violation of an environmental law to the council or a local crime stoppers program and the person who accepted the report on behalf of the council or local crime stoppers program is not admissible in a court or an administrative proceeding.

(b) Records of the council or a local crime stoppers program concerning the payment of a reward or a report of criminal activity or the violation of an environmental law may not be compelled to be produced before a court or other tribunal except on the order of the supreme court.

SECTION \_\_\_\_\_. Chapter 414, Government Code, is amended by adding Section 414.012 to read as follows:

Sec. 414.012. COUNCIL RESPONSE ACCOUNT. The crime stoppers advisory council response account is in the state treasury. Money in the account may be used only for the duties of the council under this chapter. The unexpended balance of the account at the end of each fiscal biennium shall be maintained in the account.

SECTION \_\_\_\_\_. Article 51.11, Code of Criminal Procedure, is amended to read as follows:

Art. 51.11. REWARD. (a) The Governor or a person designated by the Governor may offer a reward for information that substantially contributes to the arrest of, filing of charges against, or indictment of a person who has committed an offense [the apprehension of one accused of a felony in this State who is evading arrest,] by causing such offer to be publicized [published] in such manner as the Governor or the designated person [he] deems most likely to effect the arrest. The reward shall be paid out of the State Treasury to the person who becomes entitled to it upon a certificate of the Governor reciting the facts which entitle such person to receive it.

(b) A record that is related to a payment of a reward under Subsection (a) of this article may not be compelled to be released except on the order of the supreme court.

SECTION \_\_\_\_\_. Subchapter G, Chapter 361, Health and Safety Code, is amended by adding Section 361.231 to read as follows:

Sec. 361.231. CRIME STOPPERS FUNDING. Notwithstanding any other provision of this subchapter, five percent of a fine or civil penalty collected under this subchapter shall be deposited to the credit of the crime stoppers advisory council response account.

SECTION \_\_\_\_\_. Section 361.251(t), Health and Safety Code, is amended to read as follows:

(t) A penalty collected under this section shall be deposited to the credit of the general revenue fund, except that five percent of the penalty shall be deposited to the credit of the crime stoppers advisory council response account.

SECTION \_\_\_\_\_. Section 361.252(q), Health and Safety Code, is amended to read as follows:

(q) A penalty collected under this section shall be deposited to the credit of the general revenue fund, except that five percent of the penalty shall be deposited to the credit of the crime stoppers advisory council response account.

SECTION \_\_\_\_\_. Subchapter D, Chapter 382, Health and Safety Code, is amended by adding Section 382.092 to read as follows:

Sec. 382.092. CRIME STOPPERS FUNDING. Notwithstanding any other provision of this subchapter, five percent of a fine or a civil or administrative penalty collected under this subchapter shall be deposited to the credit of the crime stoppers advisory council response account.

SECTION \_\_\_\_\_. Subchapter D, Chapter 26, Water Code, is amended by adding Section 26.137 to read as follows:

Sec. 26.137. CRIME STOPPERS FUNDING. Notwithstanding any other provision of this subchapter, five percent of a civil or administrative penalty collected under this subchapter shall be deposited to the credit of the crime stoppers advisory council response account.

SECTION \_\_\_\_\_. Subchapter D, Chapter 26, Water Code, is amended by adding Section 26.226 to read as follows:

Sec. 26.226. CRIME STOPPERS FUNDING. Notwithstanding any other provision of this subchapter, five percent of a fine collected under this subchapter

shall be deposited to the credit of the crime stoppers advisory council response account.

The amendment was read and failed of adoption by the following vote: Yeas 15, Nays 15.

The President announced he would vote “Nay” on the adoption of the amendment.

Yeas: Barrientos, Brooks, Carriker, Ellis, Green, Harris of Tarrant, Johnson, Lucio, Lyon, Moncrief, Rosson, Tejeda, Truan, Whitmire, Zaffirini.

Nays: Armbrister, Bivins, Brown, Dickson, Glasgow, Haley, Henderson, Krier, Leedom, Montford, Parker, Ratliff, Sibley, Sims, Turner.

Absent: Harris of Dallas.

Senator Ratliff offered the following amendment to the bill:

**Floor Amendment No. 7**

Amend C.S.S.B. 90 by deleting Subsection (7) (page 7, lines 34 through 38) in its entirety and renumbering subsequent subsections accordingly.

The amendment was read.

On motion of Senator Parker, the amendment was tabled by the following vote: Yeas 18, Nays 13.

Yeas: Barrientos, Carriker, Dickson, Ellis, Glasgow, Green, Haley, Henderson, Johnson, Lyon, Moncrief, Parker, Rosson, Tejeda, Truan, Turner, Whitmire, Zaffirini.

Nays: Armbrister, Bivins, Brooks, Brown, Harris of Tarrant, Harris of Dallas, Krier, Leedom, Lucio, Montford, Ratliff, Sibley, Sims.

Senator Zaffirini offered the following amendment to the bill:

**Floor Amendment No. 8**

Amend C.S.S.B. 90 as follows:

On page 16, line 13 of the Committee Printing for C.S.S.B. 90, strike the language “Section 401.411” and replace with “Section 401.003”.

The amendment was read and was adopted by a viva voce vote.

Senator Zaffirini offered the following amendment to the bill:

**Floor Amendment No. 9**

Amend C.S.S.B. 90 as follows:

On page 16, line 12, line 20, and line 25 of the Committee Printing for C.S.S.B. 90, strike the language “substances” and replace with “material”.

The amendment was read and was adopted by a viva voce vote.

Senator Sibley offered the following amendment to the bill:

**Floor Amendment No. 10**

Amend C.S.S.B. 90 as follows:

On page 7, delete Subsection (9), lines 45-48.

The amendment was read.



Senator Montford offered the following substitute amendment for Floor Amendment No. 10:

**Floor Amendment No. 11**

Amend Floor Amendment No. 10 to C.S.S.B. 90 by substituting the following:

On page 7, line 45 subparagraph (9) by adding "intentionally, knowingly or recklessly" before the word causes.

The substitute amendment was read and was adopted by a viva voce vote.

Question recurring on the adoption of Floor Amendment No. 10 as substituted, the amendment as substituted was adopted by a viva voce vote.

On motion of Senator Parker and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to engrossment by a viva voce vote.

**COMMITTEE SUBSTITUTE  
SENATE BILL 90 ON THIRD READING**

Senator Parker moved that the Constitutional Rule and Senate Rule 7.20 requiring bills to be read on three several days be suspended and that C.S.S.B. 90 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

**BIRTHDAY GREETINGS**

The President announced to the Senate that today was Senator Carl Parker's 57th birthday.

The Senate expressed congratulations to Senator Parker on his birthday.

**PERMISSION TO MEET GRANTED**

On motion of Senator Brooks and by unanimous consent, the Conference Committees were granted permission to meet while the Senate was in session.

**RECESS**

On motion of Senator Brooks, the Senate at 1:18 p.m. took recess until 5:00 p.m. today.

**AFTER RECESS**

The Senate met at 5:00 p.m. and was called to order by Senator Rosson.

**MEMORIAL RESOLUTIONS**

**S.C.R. 14** - By Sims: In memory of Elmer H. Danner of San Angelo.

**S.C.R. 15** - By Green, Brooks: In memory of former Baytown Sun editor and publisher, Fred Hartman of Baytown.

**S.C.R. 16** - By Brooks, Dickson: In memory of community leader Raymond Clyde Summy of Mills County.

**CONGRATULATORY RESOLUTIONS**

**S.R. 171** - By Ellis: Extending congratulations to attorney Singleton B. McAllister on her election to partnership in the firm of Reed Smith Shaw and McClay.

**S.R. 172** - By Parker: Extending gratitude to physicians Robert Ojemann, Michael McKenna, Jeffery Terrell, Laurie Shapiro, Mack Cheney, and Daniel Townsend for care given to Kari Lynn McDonald; and to her husband, Ian Lynn, for his commitment and support.

**S.R. 173** - By Parker: Recognizing Mr. Charles Johnson for his notable contributions to the American Association of Retired Persons for the past 10 years.

**S.R. 174** - By Parker: Joining with the Veterans of Foreign Wars Post 1839 in honoring Louise Reid at a festive homecoming in Cleveland, Texas.

**S.R. 175** - By Moncrief: Extending best wishes to Colonel Angel M. Rivera upon his retirement after 26 years of service as a member of the United States Air Force Reserve Officer Training Corps.

**ADJOURNMENT**

On motion of Senator Brooks, the Senate at 5:02 p.m. adjourned until 11:30 a.m. tomorrow.

**EIGHTEENTH DAY**  
(Wednesday, August 7, 1991)

The Senate met at 11:30 a.m. pursuant to adjournment and was called to order by the President.

The roll was called and the following Senators were present: Armbrister, Barrientos, Bivins, Brooks, Brown, Carriker, Dickson, Ellis, Glasgow, Green, Haley, Harris of Tarrant, Harris of Dallas, Henderson, Johnson, Krier, Leedom, Lucio, Lyon, Moncrief, Montford, Parker, Ratliff, Rosson, Sibley, Sims, Tejeda, Truan, Turner, Whitmire, Zaffirini.

A quorum was announced present.

The Reverend Dr. James D. Rigby, St. Andrew's Presbyterian Church, Austin, offered the invocation as follows:

Lord, we pray for people in power. It is easy to feel righteous when we don't have real power. It is easy to feel pure when we are not faced with real choices, such as embracing the lesser of two evils or rejecting the lesser of two goods.

So, for every man and woman in the Texas Senate, we pray this day for wisdom, for courage, and for inner peace. Amen.

On motion of Senator Brooks and by unanimous consent, the reading of the Journal of the proceedings of yesterday was dispensed with and the Journal was approved.